IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL WRIT PETITION NO. 13913 OF 2006 (O&M)

DATE OF DECISION: November 16, 2006

Parties Name

Baljinder Singh

..PETITIONER

VERSUS

Financial Commissioner – cum- Principal Secretary and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH
HON'BLE MR. JUSTICE PRITAM PAL

PRESENT: Mr. N.S. Shekhawat,
Advocate, for the petitioner.

Mr. S.S.Patter, Sr. D.A.G., Haryana

Mr. B.L.Gulati, Advocate, for respondent No. 3.

Mr. Vikram Singh, Advocate, for respondent No.4

JASBIR SINGH, J. (oral)

Order.

This writ petition has been filed to lay challenge to the order dated January 23, 2006 (Annexure P-4), vide which petitioner was put under suspension, and also order dated August 22, 2006, vide which his appeal was dismissed. It is apparent from the records that a show cause notice (Annexure P-2) was issued to the petitioner stating as to why on account of registration of FIR No. 225 dated August 22, 2005, he be not put under suspension. He filed reply to the same, which was found unsatisfactory and thereafter order Annexure P-4 was passed suspending him from the post of Sarpanch. He also lost in appeal.

It is apparent from the records that in FIR dated August 22,

2005, name of the petitioner does not figure. It has been said by his counsel that subsequent to the recording of the FIR, a supplementary statement was recorded and false allegation was levelled against him. To show that it is a case of political vendetta, the counsel has referred to the order, passed by the Additional Sessions Judge, (Annexure P-8), vide which anticipatory bail was granted to him in FIR Annexure P-7 dated May 20, 2005. Counsel has further stated that the subsequent FIR, referred to above, was recorded at the instance of Shri Ram Narain, Block Development and Panchayat Officer, Pehwa, against whom FIR under the Prevention of Corruption Act is pending. He further states that after registration of the FIR, enquiry was conducted by the Additional Deputy Commissioner and the petitioner was exonerated of all the charges vide enquiry report dated June 28, 2006 (Annexure P-6).

By referring to above mentioned facts, counsel for the petitioner states that as the authorities below have not taken note of all these facts, the suspension order deserves to be set aside. In reply to the arguments, raised by counsel for the petitioner, it has been said that on account of registration of FIRs against the petitioner, he has rightly been put under suspension.

After hearing learned counsel for the parties, we are of the opinion that the writ petition has substance and deserves to be allowed. It is not in dispute that initially when FIR Annexure P-1 was recorded, name of the petitioner was not mentioned therein. It appears that subsequent thereto, some statement was recorded and his name was mentioned as one of the accused. In view of the facts, mentioned in the order passed by the

Additional Sessions Judge dated June 1, 2006 (Annexure P-8), we tentatively feel that false implication of the petitioner cannot be ruled out. Furthermore, after recording of the FIR, enquiry was conducted by the Additional Deputy Commissioner, Kurukshetra, and the petitioner was exonerated of all the charges levelled against him. Third FIR has been recorded at the instance of Babu Ram, Block Development and Panchayat Officer, regarding some incident, which had occurred prior to the recording of the FIR Annexure P-7. If the said incident had occurred, it was natural for the said officer to mention regarding those allegations, when FIR Annexure P-7 was recorded. All these facts were not noticed by the appellate authority and also by the officer, who has put the petitioner under suspension. At this stage, counsel for the petitioner states that for the purpose of this writ petition, he is not pressing allegations levelled by the petitioner against respondent No. 5

In view of facts, mentioned above, this writ petition is allowed and the orders under challenge are set aside.

(Jasbir Singh)
Judge

(Pritam Pal)
Judge

November 16, 2006.
DKC